

FINDING OF EMERGENCY

The Secretary of the Department of Food and Agriculture finds that an emergency exists, and that the foregoing regulation, or amendment to the regulation, is necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

Specific Facts Showing the Need for Immediate Action

Oriental fruit fly is a destructive insect pest of innumerable commercial agricultural crops. Fruits (including nuts, dates, and berries), many kinds of vegetables, and the fruiting bodies of many wild and ornamental plants are known to be hosts or possible hosts of the Oriental fruit fly. Larval feeding reduces the interior of fruit to a rotten mass. Egg punctures admit decay organisms that cause tissue breakdown. Damaged fruit is generally unfit for human consumption. Movement of hosts infested with the larvae of the fly can artificially spread the fly.

Adult Oriental fruit flies were trapped in the County of San Bernardino. On August 8, 2006, two adult male Oriental fruit flies were taken from traps in the Rialto area of San Bernardino County. On August 29, 2006, one adult mated female Oriental fruit fly was taken from a trap in the Rialto area of San Bernardino County. The detection of a mated adult female Oriental fruit fly was indicative of an incipient infestation of Oriental fruit fly in the Rialto area of San Bernardino County.

Oriental fruit fly has been established in Hawaii, since 1946, where it is a major pest of agriculture, particularly on mangoes, avocados and papayas. Maggots have been found in over 125 kinds of fruits and vegetables in Hawaii alone. The introduction of this pest threatens numerous crops in California, including apples, apricots, avocados, cherries, citrus, figs, nectarines, peaches, pears, plums and tomatoes. It has been estimated that the cost of not eradicating Oriental fruit fly in California would range from \$44 to \$176 million in crop losses, additional pesticide use, and quarantine requirements. Oriental fruit fly has been introduced into California a number of times,

through the movement of prohibited host fruits and vegetables into the State, and has been eradicated.

This proposed amendment of Section 3423(b) will remove approximately 65 square miles of the Rialto area of San Bernardino County from the area under quarantine for Oriental fruit fly. The fly was eradicated from this area on December 11, 2006; therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area. It is necessary to amend this regulation on an emergency basis to remove the quarantine on the Rialto area and remove restrictions on the movement of hosts and possible carriers that are unnecessary. If these unnecessary restrictions were continued, it would create an unnecessary burden for the general public and businesses in that area. Commercially produced host crops, if the restrictions were continued, would have to be treated or would not be allowed movement from the area. Also if the restrictions were continued, those members of the public who have grown host fruits and vegetables would be required to process the commodities before the fruits and vegetables can be moved or given away or they would have to destroy the host fruits and vegetables. Therefore, it is necessary to immediately amend this regulation to remove the Rialto area of San Bernardino County as an emergency action.

Authority and Reference Citations

Section 3423(b):

Authority: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code.

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Informative Digest

Existing law provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to protect the agricultural industry of California from the spread of pests. The Secretary may make and enforce such regulations as he deems necessary to prevent any plant or thing which is, or is liable to be, infested by or

which might act as a carrier of any pest, from passing over any quarantine boundary which is established.

Section 3423. Oriental Fruit Fly Interior Quarantine.

Existing regulations established the Rialto area of San Bernardino County and the Santa Ana area of Orange County as the text under subsection 3423(b) as the quarantine areas for Oriental fruit fly. This amendment will remove approximately 65 miles surrounding the Rialto area of San Bernardino County to the area under quarantine for Oriental fruit fly. The effect of the change in regulation is to remove the authority for the State to regulate movement of hosts of Oriental fruit fly from, into and within the Rialto area because it is no longer necessary to prevent the artificial spread of the fly to noninfested areas to protect California's agricultural industry.

Oriental fruit fly has not been eradicated from the Santa Ana area of Orange County. Therefore, the Department will continue to maintain its quarantine authority for this area.

Mandate on Local Agencies or School Districts

The Department of Food and Agriculture has determined that Section 3423 does not impose a mandate on local agencies or school districts, except that agricultural commissioners of counties under quarantine have a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because there are no associated costs with the removal of the Rialto area of San Bernardino County from the regulations.

Cost Estimate

The Department has also determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.